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Attorney for Defendant  
WALGREEN CO.

UNITED STATES DISTRICT COURT  
DISTRICT OF OREGON  
PORTLAND DIVISION

**JOSH PETERSON,**

Plaintiff,

v.

**WALGREEN CO. d/b/a WALGREENS,**

Defendant.

Case No. 3:15-cv-382

**DEFENDANT WALGREEN CO.'S  
NOTICE OF REMOVAL OF CIVIL  
ACTION**

**DEFENDANT WALGREEN CO.'S NOTICE OF REMOVAL OF CIVIL ACTION**

Defendant WALGREEN CO., by its undersigned counsel and pursuant to 28 U.S.C. §§ 1441 and 1446, hereby files this Notice of Removal of the above-entitled action to this Court from the Circuit Court of the State of Oregon for the County of Multnomah, Case No. 15-cv-02104. In support of this Notice, Defendant states as follows:

1. On January 30, 2015, Plaintiff filed his Complaint in the Circuit Court of the State of Oregon for the County of Multnomah, titled *Josh Peterson v. Walgreen Co. d/b/a Walgreens*, Case No. 15-cv-02104.

2. On February 3, 2015, Plaintiff served Defendant with Summons and a copy of the Complaint. Pursuant to 28 U.S.C. § 1446(a), true and correct copies of these documents are attached hereto as Exhibit A.

3. This action is one that may be removed by Defendant pursuant to 28 U.S.C. § 1441(b) because Count I of the Complaint alleges a violation of the Fair Labor Standards Act, 29 U.S.C. § 201, *et seq.* Thus, the United States District Courts have original jurisdiction over this action under 28 U.S.C. § 1331.

4. In his Complaint, Plaintiff states that he “brings this action under the Fair Labor Standards Act, 29 U.S.C. Section 201, *et seq.* (“FLSA”)” and seeks “monetary damages, liquidated damages, prejudgment interest, civil penalties and costs, including reasonable attorneys’ fees as a result of Walgreens’ failure to pay Plaintiff for the hours that Plaintiff worked off the clock . . . .” (Compl. ¶ 4.) Plaintiff’s first cause of action is an alleged violation of the FLSA by Defendant. (Compl. ¶¶ 27-40.) Accordingly, on its face, Plaintiff’s claim arises under federal law and is removable to this Court.

5. Plaintiff asserts the remainder of his claims under the Oregon Minimum Wage Act, OR. REV. STAT. § 653.010 *et seq.*, the Oregon statute governing payment of wages upon termination, OR. REV. STAT. § 652.140, and Oregon state law governing unjust enrichment. Plaintiff’s claims under Oregon law arise from his alleged employment with Defendant and the same factual allegations as the FLSA claims. Therefore, the claims are so related that they form part of the same case or controversy. Accordingly, this Court has supplemental jurisdiction over Plaintiff’s state law claims pursuant to 28 U.S.C. § 1367(a).

6. As provided under 28 U.S.C. § 1441(a), because this action was pending in the Circuit Court of the State of Oregon for the County of Multnomah prior to removal, divisional venue for purposes of removal is proper in this Court.

7. As provided under 28 U.S.C. § 1446(b), this Notice of Removal is timely filed in that it is being filed within thirty (30) days after the first receipt of the Complaint by Defendant.

8. As provided under 28 U.S.C. § 1446(d), written notice of this Notice of Removal is being sent to Plaintiff and the Clerk of the Circuit Court of the State of Oregon for the County of Multnomah. A copy of the Notice of Filing of Defendant's Notice of Removal to the United States District Court for the District of Oregon is attached hereto as Exhibit B.

WHEREFORE, for the reasons stated above, Defendant respectfully removes Case No. 15-cv-02104, pending in the Circuit Court of the State of Oregon for the County of Multnomah, to this Court.

Dated: March 5, 2015.	<u>s/ Andrew M. Altschul</u> Andrew M. Altschul BUCHANAN ANGELI ALTSCHUL & SULLIVAN, LLP 321 SW 4th Avenue, Suite 600 Portland, Oregon 97204 Telephone: (503) 974-5015 Facsimile: (971) 230-0337 Email: Andrew@baaslaw.com  Attorney for Defendant WALGREEN CO.
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**CERTIFICATE OF SERVICE**

I hereby certify that I served the foregoing **DEFENDANT WALGREEN CO.'S NOTICE OF REMOVAL OF CIVIL ACTION** by the method(s) indicated below on:

Brady Mertz  
BRADY MERTZ, PC  
Telephone: 503.385.0121  
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Salem, OR 97301  
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By the following indicated method:

**✕ Electronic filing via the CM/ECF system.**

☐ **Regular or Priority Mail:** by mailing a full, true, and correct copy thereof in a sealed envelope with postage prepaid thereon, addressed as above stated, which is the last-known office address of the attorney, and

☐ Depositing it with the United States Postal Service at Portland, Oregon, on the date set forth below. ☐ **Plus E-mail.\***

☐ Sending it via a priority mail service on the date set forth below. ☐ **Plus E-mail.\***

**\*E-mail:** Where checked above, e-mail was effected by causing a full, true, and correct copy thereof to be transmitted to the attorney in WordPerfect or Word format via electronic correspondence to the attorney's last-known e-mail address in according with United States District Court Local Rule, if applicable.

Dated: the 5<sup>th</sup> day of March, 2015.

s/ Andrew M. Altschul  
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